IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 17839 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE J.N.BHATT
and
HON'BLE MR.JUSTICE D.N.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AJANBHAI LADHABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:
MR AMIT C NANAVATI for the Petitioners.
Ms. Harsha Devani, ASSTT. GOVERNMENT PLEADER
for the Respondents.

CORAM : HON'BLE MR.JUSTICE J.N.BHATT
and
HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 24/03/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE J.N.BHATT)

Rule. Learned Assistant Government Pleader Ms. Harsha Devani waives service of notice of Rule on behalf of the respondents. The petitioners have questioned the legality and validity of the Special Land Acquisition Officer passed, on 20th March, 2003 in relation to the application of the petitioners under section 28-A of the Land Acquisition Act, 1984 tendered for redetermination of the amount of compensation on the basis of the award of the Court holding that there was a delay in making an application and therefore, the application came to be rejected. Hence, this petition under article 226 of the Constitution.

2. After having heard the learned advocates appearing for the parties and considering the text and tenor of the impugned order of the Special Land Acquisition Officer, Palanpur and the provisions of General Clauses Act, we are of the opinion that the impugned order is palpably and patently illegal.

3. It is an admitted fact and it is also manifest from the impugned order that the application under section 28-A of the Act could not be filed within the statutory prescription of 90 days which came to be expired, on 13th January, 2001, and there is no dispute further about the fact that 13th and 14th January were declared public holidays and the application came to be presented and filed, on 15th January, 2001. Obviously therefore, when the day on which limitation expires happens to be a holiday or public holiday, succeeding working day has to be taken into consideration excluding holidays for the purpose of computation of time.

4. Since we are dealing with the Central Act-the Land Acquisition Act, 1894, obviously, the provisions of section 10 of the General Clauses Act will be attracted. It would be expedient to refer the said provisions. Section 10 of the General Clauses Act, 1897 reads as under:

"10. Computation of time:-(1) Where, by any (Central Act) or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office

is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1887 (XV of 1887) applies:

(2) This section applies also to all (Central Acts) and Regulations made on or after the fourteenth day of January, 1887."

It could very well be visualised from the plain perusal of the aforesaid definition that the last day of the limitation when falls on any holiday or non-working or closed day, then the first working day will have to be considered for the purpose of computation of the limitation. Keeping in mind this aspect about which there is no dispute, the application under section 28-A came to be filed, on the next working day, i.e. on 15th January, 2001. In our opinion, therefore, taking into account the factual scenario and the legal profile, the application is required to be allowed quashing and setting aside the impugned order of the Special Land Acquisition Officer as it suffers from patent illegality and serious misinterpretation. The petition therefore, shall stand allowed. Rule made absolute, however, leaving the parties to bear their own costs. Direct service permitted.

....

***darji